DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington DC 20201

March 15, 2004

Mr. Ernst N. Csiszar, President
National Association of Insurance Commissioners
Executive Headquarters
2301 McGee Street
Suite 800
Kansas City, MO 64108-2662

Dear Mr. Csiszar:

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), P.L.108-173, added a new Part D to title XVIII of the Social Security Act (the Act), as well as adding two new subsections, (v) and (w), to section 1882 of the Act. Under Part D, Medicare beneficiaries can enroll in a new Medicare prescription drug benefit. Section 1882(v) of the Act places limitations on the sale, issuance, or renewal of Medicare supplemental (Medigap) policies that contain prescription drug coverage, and requires the Secretary of the Department of Health and Human Services to consult with the National Association of Insurance Commissioners (NAIC) in developing standards for notifying Medigap policyholders with drug coverage of their rights under the new statute.

Subsection (w) requires that current benefit packages be revised to conform to the requirements of the new law, and describes two new benefit packages that must be added. As required by section 1882(w)(1) of the Act, "The Secretary shall request the NAIC to review and revise the standards for benefit packages under subsection (p)(1), taking into account the changes in benefits resulting from enactment of the MMA and to otherwise update standards to reflect other changes in law included in such Act." The revision must include modifications to plans H, I, and J to eliminate drug coverage for all policies sold or issued after January 1, 2006, but permit renewal of Medigap policies with drug coverage issued before January 1, 2006, to policyholders who do not enroll in Part D. Pre-standardized policies with drug coverage may also be renewed for policyholders who do not enroll in Part D.

The revision must also reflect that plans H, I and J can continue to be sold if the policies are modified to eliminate drug coverage and if the premiums are adjusted accordingly.

Finally, the revision must include two new additional Medigap benefit packages described in section 1882 (w)(2) of the Act. If the NAIC makes the necessary revisions within the 9-month timeframe after the enactment of MMA, the revised Model will apply for purposes of section 1882(p) of the Act.

As required by subsection (w)(1) in the statute, "Such revisions shall be made consistent with the rules applicable under subsection (p)(1)(E) with the reference to the `1991 NAIC Model Regulation' deemed a reference to the NAIC Model Regulation as published in the *Federal Register* on December 4, 1998, and as subsequently updated by the NAIC to reflect previous changes in law (and subsection (v)) and the reference to `date of enactment of this subsection' deemed a reference to the date of enactment of MMA. To the extent practicable, such revision shall provide for the implementation of revised standards for benefit packages as of January 1, 2006." Therefore, time is of the essence, given that the States will have 1 year from the adoption of the NAIC standards (unless they meet the exception in section 1882 (p)(1)(C)(ii) of the Act) to make the necessary changes to their regulatory programs. It would accordingly be helpful if the revisions could be made earlier than the statutory deadline in order to give states additional time to make the necessary regulatory changes and, if needed, to allow the Centers for Medicare & Medicaid Services to assist the states and NAIC with any questions pertaining to MMA. Please advise us as soon as possible if any states will need the grace period allowed under section 1882 (p)(1)(C)(ii) of the Act.

We look forward to working collaboratively with you in developing these important modifications. We are hopeful that you will be able to complete the revisions expeditiously given the challenging timeframes in the statute.

Sincerely,

///original signed///

Dennis G. Smith
Acting Administrator

cc:

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Suzanne Hassett, OS

Note: The original, signed letter is three pages in length, and this copy, an exact replication, is reduced in size for printing purposes.